Patent
Attorney's Docket No. P2534-585

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)
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Ewing, David)   Group Art Unit: 2173
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Application No.: 09/672,957)   Examiner: X. Bautista
)
Filed: September 29, 2000)   Confirmation No.: 2926
)
For: Method for Dragging and Dropping)
       Between Multiple Layered Windows)

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Technology Center 2100

REQUEST FOR RECONSIDERATION

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action dated January 7, 2004, Applicant respectfully requests reconsideration and withdrawal of the rejection of the claims.

In the Office Action, the rejection of all pending claims, as being anticipated by the Gibson reference (EP 0514307), was maintained. In Applicant's previous response traversing this rejection, it was pointed out that the Gibson reference does not anticipate the claimed subject matter since, among other things, it does not disclose the use of a temporal delay in the restacking of overlapping windows. For instance, claim 1 recites the steps of: "starting a timer..." and "displaying said first inactive window...*if* the icon is found to be held within a visible portion of said first inactive window *until* said timer is expired." The Gibson does not disclose such a timer, nor the claimed operation associated with such a timer. In a similar manner, claim 25 recites the step of displaying a second window as an active window "based on whether the icon is held within a visible portion of the second window *for a predetermined amount of time.*" Again, the restacking of viewports in the Gibson

reference is not conditioned upon the icon being held within a window for a predetermined amount of time. Rather, the restacking occurs automatically in response to detection that the icon or cursor crosses the boundary of a viewport. See, for example, column 8, lines 6-10 and column 9, lines 2-6.

In response to these arguments, the most recent Office Action refers to the override function disclosed in the Gibson reference, and alleges that the disclosure of this function "suggests a timer." Applicant respectfully submits that this position is unsupportable, for at least two reasons.

First, it is to be noted that the claims have been rejected as being anticipated, under 35 U.S.C. §102. As set forth in MPEP §2131, "a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference", citing *Verdegaalbros. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). As acknowledged in the Office Action, there is no express teaching of a timer in the Gibson reference. Nor is the use of a timer inherent to the override operation. Rather, the override is dependent *only* upon whether the user depresses a dedicated key, as described at column 8, lines 36-51. The non-temporal nature of this operation is further exemplified by steps 105-111 in the flow chart of Figure 7. As can be seen therein, once the visual indicator is being moved, a determination is made at step 107 whether the indicator has left the source viewport. If so, a further determination is made at step 109 whether the override key is depressed. If not, the viewports are rearranged to bring the target viewport to the top position. If the override key is depressed, no such rearrangement occurs. There is no measurement of time, nor deliberate use of delays, in this operation.

Accordingly, the Gibson reference fails to anticipate the claims, for at least the reason that it neither expressly, nor inherently, discloses the use of a timer or a predetermined delay, in determining whether to restack the windows.

Second, the disclosure of the override function in the Gibson reference teaches *away* from using a timer in the manner of the present invention. The purpose of the override function is to prevent the automatic restacking of the viewports under certain conditions. For example, with reference to Figures 5 and 6, the Gibson reference describes a situation in which the user drags an icon from a source viewport 72 to a destination viewport 78. However, during the dragging operation, the icon crosses the viewport 76. If the viewports are automatically restacked, in accordance with the teachings of the Gibson reference, this would cause the intermediate viewport 76 to be brought to the foreground of the display, and totally obscure the destination viewport 78, as depicted in Figure 6. To prevent this unintended result, therefore, the Gibson patent discloses the ability to override the automatic restacking function, by depressing a designated key while the icon is being dragged across the viewport 76.

When a delay is utilized, as in the present invention, this override feature is unnecessary. Referring again to the example in Figures 5 and 6 of the Gibson reference, in the present invention the viewport 76 would be brought to the foreground only if the cursor being dragged remains within this viewport for a predetermined period of time, e.g. until the timer expires. If the user drags the cursor from the viewport 72 to the viewport 78 without hovering over the viewport 76 for such a period of time, the viewport 76 is not brought to the foreground. Hence, it can be seen that the use of a predetermined delay before bringing a window to the

foreground dispenses with the need for an override function of the type disclosed in the Gibson reference.

Accordingly, it is respectfully submitted that the disclosure of the override feature in the Gibson reference does not suggest the use of a timer as in the present invention.

The Office Action appears to focus upon the statement in the Gibson reference that the override feature allows the user to "temporarily" prevent the automatic restacking of overlapping viewports, with reference to column 3, lines 30-35. However, it is respectfully submitted that the temporary nature of the override feature is not conditioned upon the use of a timer. Rather, this statement refers to the fact that the override persists only for as long as the user depresses the dedicated key. As stated at column 9, lines 28-31, "The dedicated key on keyboard 14 is *maintained* in a depressed condition *until* visual indicator 19 is relocated within the boundaries of target viewport 78" (emphasis added). In other words, the override is temporary because it only functions while the user is depressing the key. There is no timer associated with the temporary nature of this operation.

In view of the foregoing, it is respectfully submitted that the Gibson reference does not anticipate the subject matter of the pending claims. Reconsideration and withdrawal of the rejection, and allowance of all claims, are respectfully requested.

Respectfully submitted,

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Date: April 5, 2004   By: _____

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